

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

MANUEL GEOVANNY RODRIGUEZ-PEREZ,
a/k/a "Manny,"
a/k/a "Shorty,"
a/k/a "Andres Garcia,"
JOSE BETANCOURT,
KAREEM BURKE,
a/k/a "Biggs,"
JENNY CASTILLO,
MIGUEL CERDA,
a/k/a "Manganzon,"
ROSEMARY DEJESUS,
a/k/a "Rosy,"
WILLIAM ALCIBIO DELGADO,
a/k/a "Mejor,"
EDGAR ENCARNACION-LAFONTAINE,
a/k/a "Tapon,"
JAVIER FALCON,
DANIEL FERNANDEZ,
ALFONSO GARCIA,
a/k/a "Fonse,"
a/k/a "Fonz,"
KLEVI GUTIERREZ,
a/k/a "Black,"
EDWING ALBERTO HERRERA,
a/k/a "Edwin Alberto Herrera,"
a/k/a "Shampoo,"
ISIDRO ESMELIN HERRERA,
ESTALIN JIMENEZ,
a/k/a "Stalin,"
a/k/a "Moyi,"
RICARDO JIMENEZ-PADILLA,
a/k/a "Gordo,"
RICHARD JIMENEZ-PEREZ,
a/k/a "Milton Delgado,"
a/k/a "Javier Ramirez-Santiago,"
JULIO CESAR LEONARDO RAMIREZ,
FRANCISCO LEONARDO,
a/k/a "Chico,"
ANDY LOCIER,
JIMMY LOPEZ,
a/k/a "Chuck,"
LUIS ANTONIO LUCIANO,

ORDER PURSUANT TO
21 U.S.C. § 853(e)

S12 10 Cr. 905 (LTS)

| | |
|---------------------------------------|---|
| a/k/a "Louis Luciano," | |
| a/k/a "Lucky," | : |
| MICHAEL MARTINEZ, | |
| a/k/a "Miguel Doleo," | : |
| ROBERT MARTINEZ, | |
| ABEL MATOS, | : |
| a/k/a "Viejo," | |
| NELSON AUGUSTO MATOS, | : |
| IDAEL MENA-HERNANDEZ, | |
| a/k/a "Fidel," | : |
| ARTURO MENA-SIFONTE, | |
| a/k/a "La Vieja," | : |
| ERICK FULGENICO NUNEZ, | |
| a/k/a "Mongolico," | : |
| a/k/a "Eddie," | |
| FRANKLIN MANUEL PACHECO-VALDEZ, | : |
| DEYANIRA PAULINO-GOMEZ, | |
| a/k/a "Maritza Alvarez-Cruz," | : |
| ARIEL PENA, | |
| a/k/a "Bin," | : |
| a/k/a "Vin," | |
| JOSE RAMON PEREZ, | : |
| LEODIS PEREZ, | |
| a/k/a "Leodi," | : |
| MIRIAM PIMENTEL, | |
| RICARDO PIMENTEL, | : |
| a/k/a "Richardo Pimentel," | |
| a/k/a "Zook," | : |
| a/k/a "Scarface," | |
| VICTOR QUEZADA, | : |
| a/k/a "Jose Hiram Quintero-Callejas," | |
| EMMANUEL RAMIREZ, | : |
| a/k/a "Titi," | |
| LETICIA RAPOSO, | : |
| a/k/a "La Rubia," | |
| MICHAEL ANGELO REYES, | : |
| a/k/a "Kiki," | |
| EDWIN RIVERA, | : |
| a/k/a "Papote," | |
| JOSE A. RODRIGUEZ, | : |
| a/k/a "Viejo," | |
| OSCAR RODRIGUEZ, | : |
| a/k/a "Chang," | |
| a/k/a "Chan," | : |
| ANDRES ROJAS, | |
| a/k/a "Conejo," | : |
| JESUS SANCHEZ, | |

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|-------------------------------|---|
| ADEL SANTANA-ZAMORA, | : |
| a/k/a "Adel Santana," | |
| MATTHEW SANTIAGO, | : |
| a/k/a "Dirt," | |
| MATTHEW WOODSTOCK STANG," | : |
| a/k/a "Magazine Guy," | |
| JEROME SIMPSON, | : |
| a/k/a "Suburban," | |
| DANIEL VALDEZ, | : |
| OMEL VAZQUEZ-PEREZ, | |
| a/k/a "Come Pizza," | : |
| a/k/a "Omel," | |
| CHRISTOPHER VIZCAINO, | : |
| a/k/a "Christopher Viscaino," | |
| a/k/a "Chuch," | : |
| a/k/a "Pechucho," | |
| a/k/a "Pechuch," | : |
| Defendants. | : |

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WHEREAS, the Government has moved for an Order authorizing the Government and its agencies to maintain custody of the properties described below pending the conclusion of the above-referenced criminal case:

1. One yellow gold (18K) man's Rolex wristwatch;
2. One yellow gold (18K) lady's Rolex wristwatch;
3. One yellow gold (18K) Cartier wristwatch;
4. One yellow gold (not marked) man's diamond set bracelet;
5. One yellow and white gold (stamped 750) lady's diamond set hinged bangle style bracelet;
6. One yellow and white gold (stamped 1972 AL, 750) lady's diamond set necklace;
7. One pair yellow and white gold (omega clips stamped 750, 18K Aeculus) scroll shell shaped diamond set earrings;

8. One white gold (stamped ITALY, 14K, 1484 AR) lady's diamond set double chain style bracelet;
9. One aluminum "Locman" wristwatch;
10. One yellow and white gold (stamped TMg 14K) man's black onyx and diamond set ring;
11. One yellow gold with rhodium plating (stamped 14K, Patent) man's diamond set ring;
12. One white gold (stamped K14, DJ) man's diamond set ring;
13. One yellow gold (stamped 14K, L-P) lady's diamond set wedding ring;
14. One yellow gold (stamped 10K, HJ, engraved Maria Molina) lady's "Coral Gables High, Cavaliers, 1986" class ring;
15. One yellow and white gold (stamped 14K, LLS) lady's diamond set engagement ring;
16. One yellow and white gold (stamped 14K, L-P) lady's diamond set engagement ring;
17. One yellow gold (stamped 14K, L-P) lady's diamond set wedding ring;
18. One yellow gold (stamped 14K, LLS) lady's decorative engraved wedding ring;

(collectively, the "Seized Assets");

WHEREAS, the Seized Assets are already in the lawful custody of the Government;

WHEREAS, the Government has represented to the Court that it will maintain and preserve the Seized Assets throughout the pending criminal case so that it will be available for forfeiture;

WHEREAS, the Seized Assets are alleged to be

forfeitable to United States as property involved in illegal narcotics trafficking pursuant to Title 21, United States Code, Section 853; and

WHEREAS, Section 853(e)(1) of Title 21, United States Code, authorizes the Court to take any action necessary to preserve the availability of property for forfeiture;

IT IS HEREBY ORDERED, that the United States and its agencies, including the Department of Homeland Security, U.S. Immigrations and Customs Enforcement, and/or U.S. Customs and Border Protection, are authorized to maintain and preserve the Subject Properties until the conclusion of the instant criminal case, pending further Order of this Court,

AND IT IS FURTHER ORDERED, that this Order satisfies the requirements described in Title 18, United States Code, Section 983(a)(3)(B)(ii)(II).

Dated: New York, New York
February 17, 2011

SO ORDERED:



HONORABLE LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK

09 2011
 UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

MANUEL GEOVANNY RODRIGUEZ-PEREZ,

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ANDY LOCIER,

JIMMY LOPEZ,

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LUIS ANTONIO LUCIANO,

APPLICATION FOR

ORDER PURSUANT TO

21 U.S.C. § 853(e)

S12 10 Cr. 905 (LTS)

a/k/a "Louis Luciano,"
 a/k/a "Lucky," :
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 ANDRES ROJAS,
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| MATTHEW SANTIAGO, | : |
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| DANIEL VALDEZ, | : |
| OMEL VAZQUEZ-PEREZ, | : |
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| a/k/a "Pechuch," | : |
| Defendants. | : |

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GOVERNMENT'S APPLICATION FOR ORDER REGARDING
CRIMINAL FORFEITURE OF PROPERTY IN GOVERNMENT CUSTODY
21 U.S.C. § 853(e)

The United States of America, through its counsel, hereby moves for an order allowing the Government to maintain, during the pendency of a criminal forfeiture matter, custody of the properties described below:

1. One yellow gold (18K) man's Rolex wristwatch;
2. One yellow gold (18K) lady's Rolex wristwatch;
3. One yellow gold (18K) Cartier wristwatch;
4. One yellow gold (not marked) man's diamond set bracelet;
5. One yellow and white gold (stamped 750) lady's diamond set hinged bangle style bracelet;
6. One yellow and white gold (stamped 1972 AL, 750) lady's diamond set necklace;

7. One pair yellow and white gold (omega clips stamped 750, 18K Aeculus) scroll shell shaped diamond set earrings;
8. One white gold (stamped ITALY, 14K, 1484 AR) lady's diamond set double chain style bracelet;
9. One aluminum "Locman" wristwatch;
10. One yellow and white gold (stamped TMg 14K) man's black onyx and diamond set ring;
11. One yellow gold with rhodium plating (stamped 14K, Patent) man's diamond set ring;
12. One white gold (stamped K14, DJ) man's diamond set ring;
13. One yellow gold (stamped 14K, L-P) lady's diamond set wedding ring;
14. One yellow gold (stamped 10K, HJ, engraved Maria Molina) lady's "Coral Gables High, Cavaliers, 1986" class ring;
15. One yellow and white gold (stamped 14K, LLS) lady's diamond set engagement ring;
16. One yellow and white gold (stamped 14K, L-P) lady's diamond set engagement ring;
17. One yellow gold (stamped 14K, L-P) lady's diamond set wedding ring;
18. One yellow gold (stamped 14K, LLS) lady's decorative engraved wedding ring; and
19. approximately \$10,000 in United States currency

(collectively, the "Seized Assets"). The Seized Assets are presently in the Government's possession.

DISCUSSION

On or about October 25, 2010, the Honorable Andrea M. Simonton, United States Magistrate Judge, Southern District of

Florida, issued a search warrant for safe deposit box # 210 and safe deposit box # 277, located at J.P. Morgan Chase Bank, International Mall Branch, 10495 NW 12th Street, Miami, FL 33172. On or about October 26, 2010, U.S. Immigration and Customs Enforcement ("ICE") agents executed the search warrant and took custody of the Seized Assets, among other property.

In accordance with Title 21 United States Code, Section 881, on or about November 22, 2010, the Department of Homeland Security, U.S. Customs and Border Protection ("CBP") sent notice to defendant, Jesus Sanchez, of its intent to forfeit U.S. currency in the amount of \$10,000 and assorted jewelry seized in Miami, Florida, on or about October 26, 2010 (the Seized Assets) in a non-judicial forfeiture proceeding, and caused that notice to be published in a newspaper of general circulation.

CBP later received claims from Maira Sanchez and Jesus Sanchez dated December 20 and 21, 2010, respectively, asserting interests in the following, among other property:¹

1. Rolex -- Lady 18K Gold Lady Watch serial # A66199 (Maira Sanchez)
2. Cartier Watch 18K Gold / with Diamond (Maira Sanchez)
3. 18K Gold Necklaces (Maira Sanchez)

¹ The claims also asserted interests in various properties not subject to the non-judicial forfeiture proceedings, including cellular phones, computers and computer equipment, firearms, and ammunition.

4. 18K Gold Bracelet (Maira Sanchez)
5. Graduation Ring -- Blue Stone (Maira Sanchez)
6. Rolex -- Gentleman 18K Yellow Gold "Daytona" serial # P698421 (Maira Sanchez)
7. \$2,000.00 US currency (Maira Sanchez)
8. \$900.00 US currency (Maira Sanchez)
9. Rolex -- Gentlemen White/gold Submarine (Jesus Sanchez)
10. 18K Gold chain (Jesus Sanchez)
11. 18K Gold Jesus Bracelet (Jesus Sanchez)

These assets appear to be subject to the notice of non-judicial forfeiture relating to the Seized Assets. Pursuant to Title 18, United States Code, Section 983(a)(3), the United States then had 90 days in which to 1) return the property, 2) commence a civil judicial forfeiture action, or 3) commence a criminal forfeiture action by including the Seized Assets in a criminal indictment.

On or about November 9, 2010, a ten-count superseding Indictment, S12 10 Cr. 905 (LTS), was filed charging Jesus Sanchez and others with violations of Title 21, United States Code, Section 846 and identifying, among other things, the following as subject to forfeiture to the United States as a result of the offenses alleged in the Indictment:

- a. approximately \$10,000 in United States currency and two pieces of jewelry seized on or about October 26, 2010, from safe deposit box number 277, registered to Maira Sanchez and Alexander Sanchez, at JPMorgan Chase Bank, International Mall Branch, 10495 Northwest 12th Street, Miami, Florida 33172; and

- b. approximately 16 pieces of jewelry seized on or about October 26, 2010, from safe deposit box number 210, registered in the names Maira Sanchez and Jesus Sanchez, at JPMorgan Chase Bank, International Mall Branch, 10495 Northwest 12th Street, Miami, Florida 33172.

The property identified in these allegations includes the Seized Assets. The case is now pending before the Court.

Title 18, United States Code, Section 983(a)(3)(B)(ii)(II) provides that when, as in this matter, the Government elects to commence criminal forfeiture against property, it must "take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute."

The applicable forfeiture statute in this case is Title 21, United States Code, Section 853. That statute prescribes several methods for preserving property for the purpose of criminal forfeiture. Section 853(e), for example, authorizes the court to "enter a restraining order or injunction . . . or take any other action to preserve the availability of property" for forfeiture. 18 U.S.C. § 853(e)(1). In addition, subsection 853(f) authorizes the issuance of a criminal seizure warrant in circumstances where an order under § 853(e) "may not be sufficient to assure the availability of the property for forfeiture." 18 U.S.C. § 853(f).

In this case, neither a restraining order nor an injunction is required to preserve the property for forfeiture

because the Government will preserve it and, in any event, the property is not irreplaceable. If, however, the Seized Assets (which are movable) are returned, it may not be available for forfeiture. The Government, therefore, seeks an Order from this Court stating that the United States and its agencies, including ICE, CBP and/or the Department of Homeland Security, may continue to maintain custody of the Seized Assets until the conclusion of the criminal case. See In Re 2000 White Mercedes, 220 F. Supp.2d 1322, 1326 n.5 (M.D. Fla. 2001) (noting that § 853(e)(1) is not limited to injunctions and restraining orders, and suggesting that "there might be some order short of an injunction or restraining order that will assure the availability of the property subject to forfeiture" when it is already in Government custody).


Accordingly, the United States respectfully moves this Court to issue an order pursuant to Title 21, United States Code, Section 853(e) directing that the United States may maintain custody of the Seized Assets through the conclusion of the pending criminal case, and stating that such order satisfies the requirements of Title 18, United States Code, Section(a) (3) (B) (ii) (II).

Dated: New York, New York
February 8, 2011

Respectfully submitted,

PREET BHARARA
United States Attorney
Southern District of New York

By:


MICHAEL D. LOCKARD
Assistant United States Attorney
(212) 637-2193

AFFIDAVIT OF SERVICE

Corinne L. Scalogna affirms under penalty of perjury pursuant to 28 U.S.C. §1746 the following:

I am employed with FSA in the Office of Preet Bharara, United States Attorney for the Southern District of New York.

On February 9, 2011, I caused to be served, in the case of U.S. v. Manuel Geovanny Rodriguez-Perez, et al., S12 10 Cr. 905 (LTS), (1) the "Government's Application for Order Pursuant to 21 U.S.C. § 853(e)," dated February 8, 2011, and (2) the proposed order pursuant to 21 U.S.C. § 853, to be delivered by certified mail to:

Jonathan Marks, Esq.
220 Fifth Avenue, 3rd floor
New York, NY 10001

Maira Sanchez
220 NW 129th Avenue
Miami, Florida 33182

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: February 9, 2011
New York, New York


CORINNE L. SCALOGNA